

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. Everyone in the petitioner's household uses several special over the counter medications and products due to their respective medical conditions. Based on information

furnished by the Department, in determining the amount of the household's Food Stamps it appears that the Department has allowed deductions from income for most of the medical-related items used by the petitioner and her husband.¹ However, because the petitioner's daughter is not considered disabled, the Department has not allowed any deductions for products and items used exclusively by her.

3. The Department also denied deductions for the following products used by the family: Gold Bar soap, Mela dish soap, Mela laundry soap, Tom's toothpaste, unbleached flour and sugar, dental flossers, Q-tips, Splenda, and sugar free hot spiced apple tea. The Department determined that these items are specially constituted regular household, food, or personal products, and are not used in and of themselves for medical purposes or treatment.

ORDER

The Department's decision is affirmed.

¹ The Department indicates it has allowed the petitioner and/or her husband deductions for the following items: AA batteries, vinegar, Benadryl, paper tape, anti-diarrhea pills, tea mix for asthma, Mel-Vita and Mel-Cal, Nutra View, sunblock, distilled water, medical related mileage, bag balm, gauze pads, corn pads, Tums, epon salts, cough drops, muscle rub, cough syrup, kapectate, vitamins, Melagel, and Hydrogel.

REASONS

The Food Stamp regulations limit deductions from income to those specifically itemized in the regulations. Food Stamp Manual (F.S.M.) § 273.9(d). Section (3) of the above regulation contains the following pertinent provisions under "Excess Medical Deduction":

Excess Medical Deduction

That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in 271.2. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. Allowable medical costs are:

. . .

iii. Prescription drugs when prescribed by a licensed practitioner authorized under state law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible. . .

A "disabled" person is defined by § 271.2 (referred to above) as a recipient of federal or state disability benefits. Based on the above, it is clear that the Department correctly determined that expenses for medical items used exclusively by the petitioner's daughter, who does not receive any federal or state benefits based on her own

disability, are not subject to a deduction from household income.

There is also no evidence or indication that the Department incorrectly determined that none of the items listed in Paragraph 3, above, constitute "medical supplies . . . or equipment" used in the *treatment* of any medical condition, as is clearly contemplated by the above regulation.

Therefore, the Board is bound by its rules to affirm the Department's decision. 3 V.S.A. 3091(d), Fair Hearing Rule No. 17.

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